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Attorneys for Defendant Educational Commission for Medical Graduates

ABDUL J. MALIK,

Plaintiff,

v.

**EDUCATIONAL COMMISSION
FOR FOREIGN MEDICAL
GRADUATES,**

Defendant.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY,
NEWARK VICINAGE**

Civil Action No. 04-CV-4360 (JAP/MCA)

**AMENDED NOTICE OF MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

TO: Abdul J. Malik
99 Manning Avenue
Jersey City, NJ 07304

PLEASE TAKE NOTICE that on October 25, 2004, or as soon thereafter as counsel may be heard, Defendant Educational Commission for Foreign Medical Graduates ("ECFMG") will request that the United States District Court, District of New Jersey, Newark Vicinage, issue and Order granting ECFMG's Motion to Dismiss Plaintiff's Complaint. Oral argument is not requested.

PLEASE TAKE FURTHER NOTICE that, in support of its Motion, ECFMG shall rely upon its accompanying Memorandum of Law and proposed form of Order.

Respectfully submitted,

s/Sarah E. Bouchard
Sarah E. Bouchard (SB5199)
Sharri H. Horowitz (SH8178)
Attorneys for Defendant ECFMG

DATED: September 29, 2004

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Civil Action No. 04-CV-4360 (JAP/MCA)

**AMENDED MOTION TO DISMISS
PLAINTIFF'S COMPLAINT PURSUANT TO
FED. R. CIV. P. 12(b)(6)**

Defendant Educational Commission for Foreign Medical Graduates
("ECFMG"), by its attorneys, pursuant to Fed. R. Civ. P. 12(b)(6), moves for an Order
dismissing Plaintiff's Complaint in its entirety. The grounds upon which this Motion is
based are as follows:

1. Plaintiff's Complaint, asserting disability discrimination, fails to state a
claim under the Americans with Disabilities Act ("ADA"), Title III, 42 U.S.C. § 12181 -
12189 because the ADA does not provide for monetary damages. Plaintiff seeks
damages totalling \$20 million. Even if Plaintiff has pleaded other elements of his claim,
the ADA does not provide the relief that he seeks.

2. Plaintiff's Complaint, asserting disability discrimination, fails to state a
claim because it does not satisfy the two-year statute of limitations applicable to suits
brought under the ADA.

In support of this Motion, Defendant relies upon the accompanying Memorandum of Law. Oral argument is not requested.

Respectfully submitted,

Of Counsel:
Morgan, Lewis & Bockius LLP

/s/ Sarah E. Bouchard
Sarah E. Bouchard
Sharri H. Horowitz

Date: September 29, 2004

CERTIFICATE OF SERVICE

I, Sharri H. Horowitz, certify that, on September 29, 2004, I caused a copy of Defendant's Amended Notice of Motion to Dismiss and Amended Motion to Dismiss Plaintiff's Complaint to be served on the following counsel by United States first-class mail:

Abdul J. Malik
99 Manning Avenue
Jersey City, NJ 07304

Pro Se Plaintiff

/s/ Sharri H. Horowitz
Sharri H. Horowitz